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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,031	10/25/2000	Yoshio Akiyama	107688	9166

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

NORDMEYER, PATRICIA L

ART UNIT	PAPER NUMBER
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1772

12

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/674,031

Applicant(s)

AKIYAMA ET AL.

Examiner

Patricia L. Nordmeyer

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspond nce address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application):
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Withdrawn Rejections

1. The 35 U.S.C. 112 rejections of claims 1 – 6 in Paper #8, Pages 2 – 3, Paragraphs 2 and 3 are withdrawn due to Applicant's amendment in Paper #11.
2. The 35 U.S.C. 102 rejections of claims 1 – 3 anticipated by Morimura et al. in Paper #8, Pages 3 – 4, Paragraph 6 are withdrawn due to Applicant's arguments and amendments in Paper #11.
3. The 35 U.S.C. 103 rejections of claims 4 and 5 over Perinet in Paper #8; Pages 6 – 7, Paragraph 9 are withdrawn due to Applicant's arguments and amendments in Paper #11.
4. The 35 U.S.C. 102 rejections of claim 6 anticipated by Robles et al. in Paper #8, Pages 5, Paragraph 7 are withdrawn due to Applicant's arguments and amendments in Paper #11.

New Rejections

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 – 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Giblin et al. (USPN 6,223,945).

Giblin et al. disclose a synthetic resin container (Column 4, lines 15 – 48) comprising a neck and a bottom (Figure 1, #10 and #250) with a body portion in-between made from many panels (Figure 1). The container contains an in-molded label with left and right sides (Column 12, lines 38 – 42) and Figure 8, #310). Curved ribs extend along the vertical left and right edges of the label (Column 12, lines 3 – 11 and Figures 1 and 4, #210). Horizontal ribs may also extend across the surface above and below the label (Column 12, lines 19 – 35 and Figure 2, #212).

7. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Hirata et al. (USPN 5,193,711).

Hirata et al. disclose a synthetic resin container (Figure 1, #1 and Column 5, lines 60 – 66) with a neck (Figure 1, the rim around the opening of the container) and a bottom (Figure 5B) with a body portion positioned in between the two (Figures 3B, 4B and 5B). The body includes an in-molded label attached to the sides of the container (Column 3, lines 15 – 17). A thick portion is formed on the inner surface of the body, adjacent to and under the edge of the label, extending along the length of the label (Figure 4A, #16).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perinet (USPN D177,275) in view of Slat (USPN 4,662,528).

Perinet discloses a bottle with a plurality of concave and convex portions along the left and right sides of the face of the bottle in equal intervals in a vertical direction (Figure 1). However, Perinet fails to disclose a recessed, corrugate shape formed in the wall surface along the left and right edges of the label with equal intervals in a vertical direction, wherein the edges of the label are positioned in the concave portions.

Slat discloses an in-molded label attached to the side of a container, wherein the wall surface is recessed around the edges of the label (Figure 6, #42, 44 and L) for the purpose of eliminating the step of attaching the label in a separate step, thereby shortening the process of making and saving money.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the recessed which follows the configuration of the in-molded label, i.e. a concave convex configuration, in Perinet in order to eliminate the step of

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attaching the label in a separate step, thereby shortening the process of making and saving money as taught by Slat.

Response to Arguments

10. Applicant's arguments with respect to claims 1 – 6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (703) 306-

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5480. The examiner can normally be reached on Mon.-Thurs. from 7:00-4:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Patricia L. Nordmeyer
Examiner
Art Unit 1772

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June 16, 2003

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

6/19/03